

REMARKSStatus of the Application

Claims 1-12 are pending. Claims 1-7 and 9-12 are rejected. Claim 8 is objected to.

Section 102 Rejections

Claims 1, 6, 10 and 11 have been rejected under 35 U.S.C. Section 102 as being anticipated by Kawasaki U.S. Patent No. 5,125,520. In response, applicants have amended claim 1 to include the limitation of claim 8. Claim 8 was objected to but deemed allowable if rewritten in independent form. Claim 1 now requires that the spacer sleeves and the support posts are formed paper tubes, which is not taught by Kawasaki. Applicants also request cancellation of claim 8. Applicants submit that with this amendment claims 1-7 and 9-12 are now allowable.

Claim 1 was also rejected under 35 U.S.C. Section 102 as being anticipated by Trygg U.S. Patent No. 6,109,857. Applicants submit that the new requirement of amended claim 1, that the spacer sleeves and the support posts are formed paper tubes, is not taught or suggested by Trygg.

Section 103 Rejections

Claims 2 and 4 have been rejected under Section 103 as being unpatentable over Kawasaki 5,125,520 in view of Hayes 4,311,237. Applicants respectfully submit that claims 2 and 4 are allowable for at least the same reason as their base claim, amended claim 1.

Claim 3 has been rejected under Section 103 as being unpatentable over Kawasaki 5,125,520 in view of Day 4,865,202. Applicants respectfully submit that claim 3 is allowable for at least the same reason as its base claim, amended claim 1.

Claim 5 has been rejected under Section 103 as being unpatentable over Kawasaki 5,125,520 in view of Crane 4,266,714. Applicants respectfully submit that claim 5 is allowable

for at least the same reason as its base claim, amended claim 1.

Claim 9 has been rejected under Section 103 as being unpatentable over Kawasaki 5,125,520. Applicants respectfully submit that claim 9 is allowable for at least the same reason as its base claim, amended claim 1.

In response to the Examiner's statement that applicants have not stated a functional reason for making the sleeves triangular, applicants reply that there are at least two functional reasons for the triangular shape of the spacer sleeves. First, the triangular shape maximizes vertical stacking strength, allowing the trays to support relatively heavy products while optimizing usable tray space for product display (paragraph 0039). Second, as shown in Figure 9, the triangular shape enables the spacer sleeves 16 to fit snugly into the corners of the trays, thereby increasing the stability of the overall system. Since Kawasaki's system is not intended to be stacked, it would not have been obvious to modify Kawasaki by making the spacer sleeves triangular.

Claims 6 and 7 have been rejected under Section 103 as being unpatentable over Trygg 6,109,857. Applicants respectfully submit that claims 6 and 7 are allowable for at least the same reasons as their base claim, amended claim 1.

In further response, applicants assert that the fifth and sixth spacer sleeves required by amended claim 7 are not "a mere duplication of the essential working parts" of applicants' packaging system, because the fifth and sixth spacer sleeves perform a different function than the other four spacer sleeves. The first four spacer sleeves are necessary to support the rectangular trays. The fifth and sixth spacer sleeves add lateral stability to the system, helping prevent racking (being forced out of shape or out of plumb) during shipping.

Claim 12 has been rejected under Section 103 as being unpatentable over Kawasaki 5,125,520 in view of Brush 6,267,255. Applicants respectfully submit that claim 12 is allowable for at least the same reasons as its base claim, amended claim 1.

Objected To Claim(s)

Applicants note with appreciation the Examiner's statement that claim 8 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants have amended base claim 1 so that it now includes all the limitations of claim 8. Claim 8 has been cancelled.

New Claim(s)

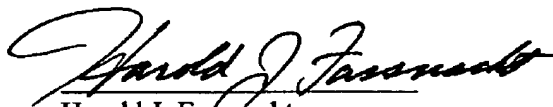
Applicants respectfully submit that new independent claim 13 and its dependent claims are not anticipated by or rendered obvious in view of the cited references for at least the following reasons. First, new claim 13 requires that the four or more inner support posts rest on and extend upward from the bottom tray, as best shown in applicants' Figure 8. Neither Kawasaki nor Trygg teaches this feature. Kawasaki's inner posts 3 extend through and below the bottommost tray 2 (Fig. 2). Trygg's "inner posts" 13 extend through openings in the trays, including the bottommost tray (Fig. 5).

Second, new claim 13 requires that the outer spacer sleeves slide onto the inner support posts to support the upper trays and space the trays apart. Trygg's outer tubes 14 (Figs. 2 and 3) do not support the trays 1. Rather, Trygg's trays are supported by the bottles on the tray below (Trygg col. 2, lines 61-65 and Fig. 5).

New claim 14 requires that the outer spacer sleeves have a substantially triangular cross-sectional profile, which neither Kawasaki nor Trygg teaches. As explained above, the triangular

unresolved matters remain.

Respectfully submitted,



Harold J. Fassnacht
Reg. No. 35,507

CLAUSEN MILLER, P.C.
10 S. LaSalle Street - Suite 1600
Chicago, Illinois 60603
Telephone: 312-606-7674

Dated: *May 23, 2005*